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Immigration Newsflash

From Paul Hastings' Immigration Practice Group

USCIS Press Release: USCIS ANNOUNCES NEW H-1B PROCEDURES - REACHES CAP

(Please find below excerpted portions of a press release issued by USCIS on Tuesday, February 17, 2004.)

Washington, D.C.- U.S. Citizenship and Immigration Services (USCIS) announced today that it has received enough H-1B petitions to meet this year's congressionally mandated cap of 65,000 new workers. After today, USCIS will not accept any new H-1B petitions for first-time employment subject to the FY 2004 annual cap. USCIS has implemented the following procedure for the remainder of FY 2004:

- * USCIS will process all petitions filed for first-time employment received by the end of business today.
- * USCIS will return all petitions for first-time employment subject to the annual cap received after the end of business today.
- * Returned petitions will be accompanied by the filing fee
- * Petitioners may re-submit their petitions when H-1B visas become available for FY 2005
- * The earliest date a petitioner may file a petition requesting FY 2005 H-1B employment with an employment start date of October 1, 2004, would be April 1, 2004

Petitions for current H-1B workers do not count towards the congressionally mandated H-1B cap. Accordingly, USCIS will continue to process petitions filed to:

- * Extend the amount of time a current H-1B worker may remain in the United States
- * Change the terms of employment for current H-1B workers
- * Allow current H-1B workers to change employers
- * Allow current H-1B workers to work concurrently in a second H-1B position

USCIS also notes that petitions for new H-1B employment are not subject to the annual cap if the alien will be employed at an institution of higher education or a related or affiliated nonprofit entity, or at a nonprofit research organization or a governmental research organization. USCIS will also continue to process H-1B petitions for workers from Singapore and Chile consistent with Public Laws 108-77 and 108-78.

The information in this Newsflash is not intended to be legal advice. However, if you require legal assistance or would like additional information about immigration matters, please contact your local Paul Hastings representative or Daryl Buffenstein at 404-815-2232 or via email at darylbuffenstein@paulhastings.com.